

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 438

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO PUBLIC ASSISTANCE; REQUIRING COST-SHARING PAYMENTS
FOR MEDICAID RECIPIENTS WHO CHOOSE EMERGENCY MEDICAL SERVICES
WHEN NON-EMERGENCY SERVICES ARE INDICATED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Public Assistance Act is
enacted to read:

"[NEW MATERIAL] MEDICAID RECIPIENTS--COST-SHARING PAYMENTS
FOR EMERGENCY MEDICAL SERVICES WHEN NON-EMERGENCY SERVICES ARE
INDICATED.--

A. Consistent with the federal act and subject to
the appropriation and availability of federal and state funds,
the department shall promulgate rules that require a recipient
who chooses a high-cost medical service provided through a
hospital emergency room to pay a co-payment, premium payment or

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underscoring material = new
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1 other cost-sharing payment for the high-cost medical service
2 if:

3 (1) the hospital from which the recipient
4 seeks service:

5 (a) performs an appropriate medical
6 screening and determines that the recipient does not have a
7 condition requiring emergency medical services;

8 (b) informs the recipient that the
9 recipient does not have a condition requiring emergency medical
10 services;

11 (c) informs the recipient that if the
12 hospital provides the non-emergency service, the hospital may
13 require the recipient to pay a co-payment, premium payment or
14 other cost-sharing payment in advance of providing the service;

15 (d) informs the recipient of the name
16 and address of a non-emergency medicaid provider that can
17 provide the appropriate medical service without imposing a
18 cost-sharing payment; and

19 (e) offers to provide the recipient with
20 a referral to the non-emergency provider to facilitate
21 scheduling of the service;

22 (2) after receiving the information and
23 assistance from the hospital described in Paragraph (1) of this
24 subsection, the recipient chooses to obtain emergency medical
25 services despite having access to medically acceptable, lower-

1 cost non-emergency medical services; and

2 (3) the recipient's household income is at
3 least one hundred percent of the federal poverty level.

4 B. The cost-sharing payment for a high-cost medical
5 service made pursuant to this section shall be:

6 (1) for a child whose household income is one
7 hundred to one hundred fifty percent of the federal poverty
8 level, six dollars (\$6.00);

9 (2) for an adult whose household income is one
10 hundred to one hundred fifty percent of the federal poverty
11 level, twenty-five dollars (\$25.00);

12 (3) for a child whose household income is one
13 hundred fifty percent of the federal poverty level or greater,
14 twenty dollars (\$20.00); and

15 (4) for an adult whose household income is
16 one hundred fifty percent of the federal poverty level or
17 greater, fifty dollars (\$50.00).

18 C. The department shall not seek a federal waiver
19 or other authorization to carry out the provisions of
20 Subsection A of this section that would prevent a medicaid
21 recipient who has a condition requiring emergency medical
22 services from receiving care through a hospital emergency room
23 or waive any provision under Section 1867 of the federal act.

24 D. The department shall not reduce hospital
25 payments to reflect the potential receipt of a co-payment or

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[bracketed material] = delete

1 other payment from a recipient receiving medical services
2 provided through a hospital emergency room.

3 E. The secretary shall apply for a grant pursuant
4 to Subsection 1903(y) of the federal Deficit Reduction Act to
5 establish a program to provide for non-emergency services to
6 serve as an alternative to emergency rooms as providers of
7 health care. This program shall establish partnerships with
8 local community hospitals and shall focus on providing
9 alternatives to emergency services for primary care for rural
10 and underserved areas where medicaid recipients do not have
11 regular access to primary care. As used in this section,
12 "primary care" means the first level of basic physical or
13 behavioral health care for an individual's health needs,
14 including diagnostic and treatment services."

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